

### REMARKS

Claims 4-6 and 45-47 are pending. Claims 4-6, 11-13, and 18-20 were rejected; claims 11-13 and 18-20 have been cancelled, without prejudice; claims 4-6 have been amended; and claims 45-47 have been added. Reconsideration and allowance are respectfully requested.

### *Oath/ Declaration*

The declaration was objected to because it does not provide a post office address and is not signed. A corrected and signed declaration is being filed concurrently with this amendment.

### *Claim Objections*

Claims 5 and 12 were objected to under 35 U.S.C. 1.75(c) as being of improper dependent form. Claim 12 has been cancelled, without prejudice. Claim 5 has been amended to be in independent form.

The examiner suggested that “highest profit” in claims 4 and 11 be amended to read “highest calculated profit amount.” This amendment has been made to claim 4. Claim 11 has been cancelled, without prejudice.

The examiner suggested an amendment to claim 18. Claim 18 has been cancelled, without prejudice.

### *Claim Rejections – 35 USC § 112*

Claims 4-6, 11-13, and 18-20 were rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 11-13, and 18-20 have been cancelled, without prejudice.

The examiner states that claims 4 and 6 fail to draw a correlation between the claim limitations and the preamble that recites “the highest profit for a particular vehicle.” Claim 4 has been amended to draw this correlation. Claim 5 has been rewritten to be independent and, as amended, also now draws this correlation. The rejection of claim 6 is respectfully traversed. Claim 6 does not make this correlation.

The examiner states that there is insufficient antecedent basis in claims 4 and 6 for “the customer.” Claims 4 and 6 have been amended to now read “a customer.”

***Claim Rejections – 35 USC § 102***

Claims 11-13 and 18-20 were rejected under 35 U.S.C. 102(e). These claims have been cancelled, without prejudice.

***Claim Rejections – 35 USC § 103***

Claims 4-6 were rejected under 35 U.S.C. 103(a) as being unpatentable over Walker (US Pat. Pub. 2002/0107765) in view of Sheets (US Pat. Pub 2001/0049653). This rejection is respectfully traversed and reconsideration is requested.

Claim 4 is directed to a method for identifying which of a plurality of retail finance programs generates the highest calculated profit amount for a particular vehicle. Financial data associated with a customer, a target monthly payment amount, and information about the vehicle are received. A database that includes information about a plurality of retail finance programs is stored in a computer system and is accessed. A profit amount for each of the plurality of retail finance programs for the vehicle is calculated. The calculating includes handling the financial data and the target monthly payment amount as constraints. The calculated profit amounts are compared. The retail finance program that has the highest calculated profit amount is identified.

Walker discloses an on-line system for approving credit applications. Abstract. Each finance option is ranked on a display screen in order of how much revenue it would bring the dealership. Par. 0065. In another embodiment, the “most advantageous” loan program is indicated. *Id.*

As recognized by the Examiner, however Walker does not disclose using a target monthly payment amount as a restraint in the calculation, as required by claim 4. Indeed, Walker does not even disclose calculating the profit of each finance program, as also required by claim 4. (In one embodiment, Walker looks at “revenue,” which it not profit. In another embodiment, Walker looks at the “most advantageous” program, which is a generic phrase having a wide variety of species.)

Sheets does not make up for these deficiencies. Sheets discloses a system for matching customers with products in inventory. Abstract. Vehicles that would require a monthly payment outside of a specified range are not listed. *See* Par. 0035. Unlike claim 4, however, Sheets does not calculate a profit for a finance program, let alone for a plurality of finance programs; Sheets does not compare finance programs; and Sheets does not report which finance program would yield the highest profit. Indeed, Sheet is not even concerned with finding the most profitable finance program.

The examiner nevertheless urges that it would have been obvious to have modified Walker to have constrained its revenue analysis to finance programs that met a target monthly payment. The Examiner contends this because Sheets used a desired monthly payment range in determining which vehicles to match with a customer. However, Walker and Sheets are as different as apples and oranges. Suggesting that targeted monthly payments be used in

determining vehicle recommendations in no way reveals or suggests that they instead be used in identifying the most profitable financing program. Only impermissible hindsight could explain modifying Walker to anticipate the subject invention.

Claims 5 and 6 contain limitations similar to those that distinguish claim 4 from Walker and Sheets and thus are also patentable in view of them.

### *New Claims*

Claims 45-47 have been added. Each is dependent upon one of the claims which, as discussed above, are patentable in view of the applied art. Thus, these claims are also patentable in view of these references for the same reasons.

These claims also constrain the selection of a finance program by the amount of cash available from the customer for an initial payment. This further distinguishes these claims from the applied art. This features was also disclosed in the original specification. *See, e.g.*, ¶ 0052.

**CONCLUSION**

For the foregoing reasons, it is respectfully submitted that this application is now in condition for allowance.

To the extent necessary, a further petition for an extension of time under 37 C.F.R. 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account 501946 and please credit any excess fees to such deposit account.

Respectfully submitted,

McDERMOTT WILL & EMERY LLP

Marc E. Brown

Registration No. 28,590

2049 Century Park East, 38th Floor  
Los Angeles, CA 90067  
Phone: (310) 277-4110  
Facsimile: (310) 277-4730  
**Date: December 28, 2007**

**Please recognize our Customer No. 33401  
as our correspondence address.**